

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF PUERTO RICO

EGBERTO TORRES TORRES,

Plaintiff

v.

DEPARTMENT OF HOMELAND SECURITY,

Defendant.

CIV. NO. 08-1899 (PG)

ORDER

Rule 41(b) of the Federal Rules of Civil Procedure permits a court to dismiss an action if the plaintiff fails "to prosecute or to comply with these rules or any order of court." FED. R. CIV. P. 41(b). "The authority of a federal trial court to dismiss a plaintiff's action . . . because of his failure to prosecute cannot seriously be doubted." Link v. Wabash R.R., 370 U.S. 626, 629 (1962). "This power, which is of ancient origin . . . is a necessary component of the authority and responsibility of the district courts to establish orderly processes and manage their calendars." Pomales v. Celulares Telefonica, Inc., 342 F.3d 44, 48 (1st Cir. 2003) (internal quotation marks omitted) (citing Young v. Gordon, 330 F.3d 76, 81 (1st Cir. 2003)). In addition, the Judicial Conference of the United States and the Case Administration and Case Management Committee (CACM) have classified the Federal District Court for the District of Puerto Rico as a congested federal district court.

The Court issued an Order to Show Cause (Docket No. 7) on September 1, 2009, giving Plaintiff ten (10) days until September 11, to explain to the Court why his case should not be dismissed for lack of prosecution. In said Order, the Court noted that no action had been taken in the case since September 5, 2008, over one (1) year after the filing of the Complaint (Docket No. 2). The Court warned Plaintiff that "failure to answer within the deadline imposed by the Court will result in an immediate dismissal." (Docket No. 7.) Plaintiff failed to comply with the Order, which Plaintiff has not responded to as of present day: June 23, 2010. Summons were issued as to Defendant on September 14, 2009 and were received by Defendant on September

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28, 2009. Plaintiff has taken no further action since the receipt of summons by Defendant through the United States Marshals Service. Plaintiff has simply failed to prosecute his case since the filing of the Complaint on August 14, 2008, nearly two (2) years ago. Under this "[C]ourt's . . . unquestionable authority to dismiss a case . . . for want of prosecution in order to prevent undue delay in the disposition of pending cases, docket congestion and the possibility of harassment of defendant," Jardines Ltd. Partnership v. Executive Homeseach Realty Serv. Inc., 178 F.R.D. 365 (D.P.R. 1998), the Court hereby dismisses Plaintiffs' claim against Defendant with prejudice pursuant to FED. R. CIV. P. 41(b). Final judgment dismissing the case with prejudice shall be entered accordingly.

**IT IS SO ORDERED.**

In San Juan, Puerto Rico, June 23, 2010.

S/JUAN M. PEREZ-GIMENEZ  
JUAN M. PEREZ-GIMENEZ  
U.S. DISTRICT JUDGE